

Amendment No. 1 to SB2109

Bell
Signature of Sponsor

AMEND Senate Bill No. 2109

House Bill No. 2105*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated Title 47, Chapter 18, is amended by adding the following as a new part:

47-18-5601.

This part shall be known and may be cited as the "Fantasy Sports Contest Act of 2016."

47-18-5602. For purposes of this part:

(1) "Commission" means the Tennessee fantasy sports commission, created by § 47-18-5603;

(2) "Fantasy sports contest" means any online fantasy contest or simulated game in which players pay an entry fee to assemble imaginary teams of athletes, are offered an award or prize made known to the players in advance of the contest or game, and the winning outcome of the contest or game reflects the relative knowledge and skill of the participants and shall be determined predominantly by the accumulated statistical results of the performance or finishing position of athletes in underlying amateur or professional competitions. No winning outcome may be based on the score, point spread, or any performance or performances of any single actual team or combination of teams or solely on any single performance of an athlete or participant in any single actual event. A fantasy sports contest does not include offering or awarding a prize to the winner of, or athletes in, the underlying competition itself;

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(3) "Fantasy sports contest operator" means a person or entity that offers fantasy sports contests for a cash prize to members of the public;

(4) "Fantasy sports contest player" means a person who participates in a fantasy sports contest offered by a fantasy sports contest operator; and

(5) "Proprietary information" means trade secrets and commercial or financial information that is used either directly or indirectly in the business of any person submitting information to the division under this part, and that gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information.

47-18-5603.

(a) There is created the Tennessee fantasy sports commission for the purpose of regulating fantasy sports contests. The commission shall be administratively attached to the office of the secretary of state for all purposes.

(b)

(1) The commission shall be composed of five (5) members as follows:

(A) One (1) member to be appointed by the governor;

(B) Two (2) members to be appointment by the speaker of the senate; and

(C) Two (2) members to be appointed by the speaker of the house of representatives.

(2) All initial appointments shall be made no later than June 30, 2016.

(c) In appointing members to the commission, the appointing authorities shall strive to ensure that the composition of the commission represents the diversity of persons in Tennessee by considering race, gender, age, and geographical and political interests.

(d) The five (5) commission members shall be appointed for four (4) year terms except that the initial terms shall be for two (2) years for the member appointed by the governor, three (3) years for the two (2) members appointed by the speaker of the senate, and four (4) years for the two (2) members appointed by the speaker of the house of representatives. The terms of all members shall begin on July 1 and terminate on June 30, in the year in which the members' terms expire pursuant to this subsection (d).

(e) Members shall be selected to serve on the commission for no more than two (2) successive terms, including terms that are less than four (4) years or partial terms.

(f) A vacancy on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(g) All commission members shall be residents of Tennessee.

47-18-5604. Members of the commission shall not receive any compensation for their services but shall be reimbursed for travel expenses incurred in connection with their official duties. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration.

47-18-5605.

(a) All meetings of the commission shall be held in Nashville. The commission shall elect one (1) of its own members as chair. The commission shall meet at least quarterly, and at the call of the chair. Three (3) members of the commission shall constitute a quorum for the transaction of any business; and all official action of the

commission shall require a quorum. A special meeting may be called by the chair, or by a majority of the commission.

(b) Any member of the commission who fails to attend at least fifty percent (50%) of the regularly scheduled meetings of the commission within any twelve-month period shall automatically be removed from the commission and a successor member shall be appointed by the appointing authority to serve out the remaining term of the member being replaced.

(c) All meetings of the commission shall be subject to the open meeting provisions of title 8, chapter 44, and the public records provisions of title 10, chapter 7; provided, however, the commission shall maintain the confidentiality of all proprietary information it may acquire.

47-18-5606.

(a) The commission is authorized to appoint a director, who will serve at the pleasure of the commission. The governor shall set the compensation of the director for the initial term of office. Thereafter, the commissioners shall set the executive director's compensation. The director's office shall be in Nashville.

(b) The director shall be at least thirty (30) years of age, a resident of this state of Tennessee for at least three (3) years prior to appointment, and licensed to practice law in this state.

(c) The director shall be the chief administrative officer of the commission and all personnel employed by the commission shall be under the director's direct supervision. The director shall be solely responsible to the commission for the administration and enforcement of this part and shall be responsible for the performance of all duties and functions delegated by the commission. The director shall have the authority to hire and fire the staff necessary to carry out the director's responsibilities pursuant to this part.

(d) The director shall keep and be responsible for all records of the commission and serve as secretary of the commission. The director shall prepare and keep the minutes of all meetings held by the commission, including a record of all business transacted and decisions rendered. The commission is authorized to appoint an assistant director who shall perform duties and functions assigned by the director or the commission. The director and assistant director shall be reimbursed for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration.

47-18-5607.

No person shall be eligible to be appointed as a member of the commission, and no person shall be employed in any capacity by the commission, if that person has any interest, financial or otherwise, either direct or indirect, in any fantasy sports contest operator licensed as such in this state. A fantasy sports contest operator shall not employ a commission member's immediate family. The commission shall promulgate a rule to define "immediate family" for purposes of this section. No such commission member shall own any stock, bond, equity interest, or other property in any fantasy sports contest operator licensed pursuant to this part. No member of the commission shall engage in or participate in a fantasy sports contest that is regulated pursuant to this part.

47-18-5608. The commission shall carry out the duties assigned to it pursuant to this part, including the following:

(1) The commission shall oversee the licensure of fantasy sports contest operators that seek to operate in this state and shall establish minimal requirements for licensure, including, but not limited to, requiring an application from each fantasy sports contest operator that seeks to obtain a license to operate in this state. The application

required pursuant to this subdivision (1) shall include, but not be limited to, the following information:

(A) Name of the applicant;

(B) Location of the applicant's principal place of business;

(C) Complete disclosure of the true ownership of the fantasy sports operator. For purposes of this subdivision (1)(C), "true ownership" shall be determined by the commission by rule;

(D) Applicant's criminal record, if any;

(E) Any ownership interest held by a director, officer, policy-making manager, or principal stockholder in any entity previously or currently licensed by another commission that licenses fantasy sports contest operators, or similar entities;

(F) Description of any physical facility operated by the fantasy sports contest operator in this state, the facility's employees, and the nature of the facility's business; and

(G) Such other relevant information as may be required by the commission;

(2) Promulgate rules reasonably necessary to implement and administer this part;

(3) Require that all licensed fantasy sports contest operators contract annually with a third party to perform an independent audit, consistent with the standards established by the public company accounting oversight board, to ensure compliance with the requirements of this part. Upon completion of the audit, the audit records shall be submitted to the commission for examination and inspection. These records shall be confidential and shall not be open to public inspection;

(4) Provide information to the department of revenue to assist in its administration and collection of taxes applicable to fantasy sports contest operators;

(5) Establish the following fees, not to exceed the costs to cover the administration of this part:

(A) A nonrefundable application fee;

(B) A nonrefundable fee for licensure; and

(C) An annual licensure renewal fee;

(6) Require fantasy sports contest operators to report annually all winnings earned by fantasy sports contest players on online platforms supported by the fantasy competition operator to the commission;

(7) Maintain a registry of fantasy sports contest operators licensed to operate in this state;

(8) Conduct investigations regarding alleged violations of this part and make evaluations as necessary to determine if licensees are complying with this part;

(9) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents; and

(10) Deny, suspend, or revoke a license issued under this part to any applicant or licensee who fails to comply with the requirements of this part or fails to follow the rules promulgated by the commission.

SECTION 2. Tennessee Code Annotated, Section 4-29-239(a), is amended by inserting the following new subdivision:

() Tennessee fantasy sports commission, created by § 48-15-5603;

SECTION 3. For purposes of promulgating rules and making appointments, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.